

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

| | | |
|---------------------------|---|----------------------------------|
| UNITED STATES OF AMERICA, |) | CASE NO. 1:06CR125 |
| |) | |
| Plaintiff, |) | JUDGE SOLOMON OLIVER, JR. |
| v. |) | |
| |) | |
| MANUEL VALDEZ-GOMEZ, |) | |
| |) | |
| AURORA VALDEZ, |) | |
| |) | |
| ROMULO HERNANDEZ, |) | |
| |) | |
| and |) | |
| |) | |
| PATRICIA HERNANDEZ, |) | |
| aka PATRICIA VALDEZ, |) | |
| |) | |
| Defendants. |) | <u>FINAL ORDER OF FORFEITURE</u> |

It appears to the Court that proper proceedings for the issuance of a Final Order of Forfeiture have been had in this case as follows:

1. By the Preliminary Orders of Forfeiture, filed March 9, 2007 [Dkt. No. 506] and March 21, 2007 [Dkt. No. 511], the following properties were forfeited to the United States under 8 U.S.C. § 1324(b) and 28 U.S.C. § 2461(c); and, 18 U.S.C. § 982(a)(6), for disposition in accordance with law, subject to the provisions of 21 U.S.C. § 853(n):

a.) 116 South 27th Avenue, Phoenix, Arizona; Parcel No.

109-44-079. [MANUEL VALDEZ-GOMEZ]

b.) 5927 West Avalon Drive, Phoenix, Arizona; Parcel No.

103-45-060. [MANUEL VALDEZ-GOMEZ, AURORA VALDEZ]

c.) \$32,442.00 in U.S. Currency seized on March 23, 2006,
at 5927 West Avalon Drive, Phoenix, Arizona. [MANUEL VALDEZ-
GOMEZ, AURORA VALDEZ]

d.) One AR-7 Explorer assault rifle; one AK-47 assault
rifle; one AR-15 assault rifle; one Glock .40 caliber pistol; one
Charter Arms .45 caliber pistol; one Smith and Wesson .40 caliber
pistol; two Ruger 9mm pistols; one Taurus PT92AR 9mm pistol; 37
rounds of Smith and Wesson .40 caliber ammunition; 189 rounds of
Remington .223 caliber ammunition; 121 rounds of Winchester
5.56mm ammunition; 389 rounds of 7.62 x 39mm ammunition; 1844
rounds of 9mm ammunition; one 30-round AR-15 magazine (.223); one
75-round AK-47 drum magazine (7.62 x 39); one 10-round AR-15
magazine (.223); one 40-round AK-47 magazine (7.62 x 39); nine
9mm magazines; four 40 caliber magazines; and, one 100-round AR-
15 double drum magazine seized on March 23, 2006, at 5927 West
Avalon Drive, Phoenix, Arizona. [MANUEL VALDEZ-GOMEZ, AURORA
VALDEZ]

e.) \$19,896.00 in U.S. Currency seized on March 23, 2006,
at Rebelde Auto Sales and Repair, 2330 North 7th Street, Phoenix,
Arizona. [MANUEL VALDEZ-GOMEZ, ROMULO HERNANDEZ]

f.) \$14,899.98 in uncashed money orders seized on March 23,

2006, at Rebelde Auto Sales and Repair, 2330 North 7th Street, Phoenix, Arizona. [MANUEL VALDEZ-GOMEZ, ROMULO HERNANDEZ]

g.) 189 rounds of .22 caliber ammunition, 217 rounds of .40 caliber ammunition, and 50 rounds of .380 caliber ammunition seized on March 23, 2006, at Rebelde Auto Sales and Repair, 2330 North 7th Street, Phoenix, Arizona. [MANUEL VALDEZ-GOMEZ, ROMULO HERNANDEZ]

h.) \$34,403.01 seized on March 29, 2006, from account #xxxxxx3580 located at JP Morgan, Chase (formerly Bank One), 201 N. Central Avenue, Phoenix, Arizona. [MANUEL VALDEZ-GOMEZ, AURORA VALDEZ]

i.) \$68,992.57 seized on March 29, 2006, from account #xxx xx7486 located at JP Morgan, Chase (formerly Bank One), 201 N. Central Avenue, Phoenix, Arizona. [MANUEL VALDEZ-GOMEZ, AURORA VALDEZ]

j.) Sahuaro Motel y Restaurant, Avenue Ruiz Cortinez #509, Nogales, Sonora, Mexico. [MANUEL VALDEZ-GOMEZ]

k.) The entire contents of accounts #xxxxx2665 [approximately \$8,700.00] and #xxxxx7126 [approximately \$2,100.00] located at Bank of America, 201 E. Washington Street, Phoenix, Arizona. [MANUEL VALDEZ-GOMEZ, ROMULO HERNANDEZ, PATRICIA HERNANDEZ]

l.) 6334 West Mulberry Drive, Phoenix, Arizona; Parcel No. 103-48-017. [ROMULO HERNANDEZ, PATRICIA HERNANDEZ]

2. Under 21 U.S.C. § 853(n), third parties asserting a legal interest in initially forfeited properties are entitled to a judicial determination of the validity of the legal claims or interests they assert.

3. By an Agreement [Dkt. No. 468], filed January 25, 2007, potential third party claimant Priscilla Valdez (the daughter of defendant Manuel Valdez-Gomez) consented to the forfeiture of the following properties, and agreed not to contest their forfeiture pursuant to 21 U.S.C. § 853(n): the properties identified in paragraphs 1(h) [to wit: \$34,403.01 seized on March 29, 2006, from account #xxxxxx3580 located at JP Morgan, Chase (formerly Bank One), 201 N. Central Avenue, Phoenix, Arizona]; and, 1(i) [to wit: \$68,992.57 seized on March 29, 2006, from account #xxx xx7486 located at JP Morgan, Chase (formerly Bank One), 201 N. Central Avenue, Phoenix, Arizona].

4. Additionally, the United States published notifications of the Court's Preliminary Orders of Forfeiture in the Arizona Business Gazette. Said published notices advised all third parties of their right to petition the Court within thirty (30) days of the final publication date for a hearing to adjudicate the validity of their alleged legal interest in the initially forfeited properties. Attached hereto as Exhibits 1-2 are copies of the notices.

5. No third party claims to the subject properties were

made as a result of the published notifications.¹

6. In the plea agreements of Patricia Hernandez [Dkt. No. 590] and Romulo Hernandez [Dkt. No. 592], the United States agreed to accept a monetary settlement of \$100,000.00 in lieu of the forfeiture of the property identified in paragraph 1(l) [to wit: 6334 West Mulberry Drive, Phoenix, Arizona; Parcel No. 103-48-017]. On or about May 7, 2007, the defendants delivered a cashier's check in the amount of \$100,000.00 to the United States.

Accordingly, it is ORDERED, ADJUDGED, and DECREED:

7. The following properties are finally forfeited to the United States, and no right, title or interest shall exist in any other party:

a.) 5927 West Avalon Drive, Phoenix, Arizona; Parcel No. 103-45-060.

b.) \$32,442.00 in U.S. Currency seized on March 23, 2006, at 5927 West Avalon Drive, Phoenix, Arizona.

c.) One AR-7 Explorer assault rifle; one AK-47 assault rifle; one AR-15 assault rifle; one Glock .40 caliber pistol; one Charter Arms .45 caliber pistol; one Smith and Wesson .40 caliber pistol; two Ruger 9mm pistols; one Taurus PT92AR 9mm pistol; 37

¹ With respect to the property identified in paragraph 1(j) [to wit: Sahuaro Motel y Restaurant, Avenue Ruiz Cortinez #509, Nogales, Sonora, Mexico], newspaper publication has not yet been completed in the Nogales, Sonora, Mexico area. Consequently, at this time, the United States is not seeking a final order of forfeiture against that property.

rounds of Smith and Wesson .40 caliber ammunition; 189 rounds of Remington .223 caliber ammunition; 121 rounds of Winchester 5.56mm ammunition; 389 rounds of 7.62 x 39mm ammunition; 1844 rounds of 9mm ammunition; one 30-round AR-15 magazine (.223); one 75-round AK-47 drum magazine (7.62 x 39); one 10-round AR-15 magazine (.223); one 40-round AK-47 magazine (7.62 x 39); nine 9mm magazines; four 40 caliber magazines; and, one 100-round AR-15 double drum magazine seized on March 23, 2006, at 5927 West Avalon Drive, Phoenix, Arizona.

d.) \$19,896.00 in U.S. Currency seized on March 23, 2006, at Rebelde Auto Sales and Repair, 2330 North 7th Street, Phoenix, Arizona.

e.) \$14,899.98 in uncashed money orders seized on March 23, 2006, at Rebelde Auto Sales and Repair, 2330 North 7th Street, Phoenix, Arizona.

f.) 189 rounds of .22 caliber ammunition, 217 rounds of .40 caliber ammunition, and 50 rounds of .380 caliber ammunition seized on March 23, 2006, at Rebelde Auto Sales and Repair, 2330 North 7th Street, Phoenix, Arizona.

g.) \$34,403.01 seized on March 29, 2006, from account #xxxxxx3580 located at JP Morgan, Chase (formerly Bank One), 201 N. Central Avenue, Phoenix, Arizona.

h.) \$68,992.57 seized on March 29, 2006, from account #xxx xx7486 located at JP Morgan, Chase (formerly Bank One), 201 N.

Central Avenue, Phoenix, Arizona.

i.) The entire contents of accounts #xxxxx2665 [approximately \$8,700.00] and #xxxxx7126 [approximately \$2,100.00] located at Bank of America, 201 E. Washington Street, Phoenix, Arizona.

8. The United States shall seize and take control of these properties, and shall dispose of them in accordance with law.²

9. The United States is authorized to seize the following property, and it is finally forfeited to the United States for disposition in accordance with law: 116 South 27th Avenue, Phoenix, Arizona; Parcel No. 109-44-079. The proceeds of the sale of the property shall be paid in the following priority:

a.) To the United States for the payment of all reasonable expenses incurred in the preservation of the property; all outstanding property taxes due and owing in accordance with federal law; and, the reasonable costs of the sale of the property.

b.) Upon the sale of the property, the mortgage holder shall be paid the following from the proceeds of the sale: the

² At page 8, paragraph 10 of Dkt. No. 506 [to wit: the Preliminary Order of Forfeiture as to defendants Romulo Hernandez and Patricia Hernandez], it is stated that: "the United States has agreed to return \$200.00 from the forfeited properties to defendant Patricia Hernandez." In accordance with this agreement, \$200.00 shall be returned to defendant Patricia Hernandez from the following: The entire contents of accounts # xxxx2665 [approximately \$8,700.00] and # xxxx7126 [approximately \$2,100.00] located at Bank of America, 201 E. Washington Street, Phoenix, Arizona.

outstanding balance lawfully due the mortgage holder on the date of the sale.³

c.) The balance of the sale proceeds remaining after the above disbursements shall be forfeited to the United States.

10. The United States is authorized to seize and take control of the \$100,000.00 identified in paragraph 6, above. The \$100,000.00 is finally forfeited to the United States in lieu of the real property located at 6334 West Mulberry Drive, Phoenix, Arizona (Parcel No. 103-48-017), and shall be treated in the same manner as the proceeds of sale of a forfeited item and disposed of according to law. 19 U.S.C. § 1613(c).

11. This case remains pending as to the following property: Sahuaro Motel y Restaurant, Avenue Ruiz Cortinez #509, Nogales, Sonora, Mexico. As indicated in footnote 1, above, the United States will seek a final order of forfeiture against this property upon completion of newspaper publication in the Nogales, Sonora, Mexico area.

SO ORDERED this 29 day of ~~XXXXXXXXXXXX~~ January, 2008

s/SOLOMON OLIVER, JR.

Solomon Oliver, Jr.
United States District Judge

³ On July 28, 2003, a Deed of Trust was recorded (Maricopa County Recorder #20031000688) for \$48,000.00 between defendant Manuel Valdez and the lender, Great Western Mortgage. On September 12, 2003, an "Assignment of Mortgage/Deed of Trust and Promissory Note" was recorded (Maricopa County Recorder #2003-1285848), wherein Great Western Mortgage transferred its interest to National City Mortgage Company.